

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LISA BENNETT,

Plaintiff,

VS.

JOHNSON & JOHNSON, et al.,

Defendants.

Case No. 4:22 CV 1175 RWS

MEMORANDUM AND ORDER

On December 14, 2022, I was forced to cancel the scheduling conference in this matter because the parties failed to submit a joint proposed plan in compliance with the requirements of the Order Setting Rule 16 conference. ECF 17. I specifically instructed the parties to submit either one joint, or two alternative, proposed plans with specific calendar dates for the Court’s consideration by December 28, 2022. ECF 17. I also specifically resolved the issue that was apparently preventing the parties from reaching any sort of agreement on discovery. I held: “Plaintiff cannot be forced to sign a cost-sharing agreement from an MDL in which she never participated, so the parties shall submit proposed deadlines for conducting discovery in this case accordingly.” ECF 17.

The parties then submitted a joint plan on December 21, 2022, which indicated plaintiff's agreement to use the MDL discovery and sign the cost-sharing

agreement. ECF 18. Plaintiff has since moved to withdraw that document, claiming that she was misled about the costs of such participation. ECF 19. In response, defendants once again suggest that plaintiff should participate in the cost-sharing agreement from the MDL, pointing to the MDL Court's suggestion that non-MDL plaintiffs participate in such an arrangement. ECF 21. **I have already settled this dispute. This is not an MDL case and plaintiff cannot be forced to participate in the cost-sharing agreement. The parties need to discuss a schedule for conducting discovery in this case only without the use of the MDL discovery absent plaintiff's voluntary agreement otherwise.**

I will give the parties one final opportunity to submit a joint proposed scheduling plan for this case. I urge the plaintiff to fully research any cost-sharing arrangement before again agreeing to participate, as the Court ordinarily does not permit parties to back out of discovery agreements. In this case, however, I will grant the plaintiff's motion to withdraw and give the parties the new deadline of **January 6, 2023** to submit a joint plan in compliance with this Order and the prior Orders of November 10, 2022, and December 14, 2022. **Failure to comply with this Order will result in the automatic imposition of a scheduling order by the Court and an Order to Show Cause why the parties should not be sanctioned for their failure to comply with my Orders and participate in good faith in the formation of a discovery plan.**

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to withdraw [19] is granted.

IT IS FURTHER ORDERED that the parties shall submit a joint proposed scheduling plan in compliance with this Order, the November 10, 2022 Order Setting Rule 16 Conference, and the December 14, 2022 Memorandum and Order by not later than **January 6, 2023**. **Failure to comply with this Order will result in the automatic imposition of a scheduling order by the Court and an Order to Show Cause why the parties should not be sanctioned for their failure to comply with my Orders and participate in good faith in the formation of a discovery plan.**



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 29th day of December, 2022.